

# HOUSE BILL No. 1156

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-13-2-151.5; IC 9-23.

**Synopsis:** Motor vehicle dealers. Provides that, under certain circumstances, it is an unfair practice (for which a dealer's or manufacturer's license may be denied, suspended, or revoked) for a manufacturer or distributor to establish a dealership that would compete with a new vehicle dealer within the dealer's relevant market area. Defines "relevant market area". Provides that it is an unfair practice for a motor vehicle manufacturer or dealer to establish or acquire wholly or partially a franchisor owned outlet engaged in a business substantially identical to that of a franchisee within the exclusive territory granted the franchisee by the franchise agreement, even if the franchisor owned outlet is engaged in the business only partially. Amends the law on the succession to a motor vehicle dealership franchise by designated family members to make the law applicable to a situation in which the successor designated by the franchisee is the spouse of a child or grandchild of the franchisee.

**Effective:** July 1, 2001.

**Cook**

January 9, 2001, read first time and referred to Committee on Public Policy, Ethics and Veterans Affairs.



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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1156

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 9-13-2-151.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2001]: **Sec. 151.5. "Relevant market area",**  
4 **for purposes of IC 9-23-3, means, with respect to a new motor**  
5 **vehicle dealer, the greater of the following:**

6 (1) **The area within a circle, the radius of which extends from**  
7 **the principal location of the dealer, at the center of the circle,**  
8 **to any point:**

9 (A) **eight (8) miles away from the dealer's principal**  
10 **location, if the principal location is in a county having a**  
11 **population of at least three hundred thousand (300,000); or**

12 (B) **twelve (12) miles away from the dealer's principal**  
13 **location, if the principal location is in a county having a**  
14 **population of less than three hundred thousand (300,000);**  
15 **or**

16 (2) **The area assigned to the new motor vehicle dealer under**  
17 **a franchise agreement.**



SECTION 2. IC 9-23-3-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 23. It is an unfair practice for a manufacturer, distributor, officer, or agent to do any of the following:

(1) Require, coerce, or attempt to coerce any new motor vehicle dealer in Indiana to:

(A) change location of the dealership;

(B) make any substantial alterations to the use of franchises; or

(C) make any substantial alterations to the dealership premises or facilities;

if to do so would be unreasonable or would not be justified by current economic conditions or reasonable business considerations. This subdivision does not prevent a manufacturer or distributor from establishing and enforcing reasonable facility requirements.

(2) Require, coerce, or attempt to coerce any new motor vehicle dealer in Indiana to divest its ownership of or management in another line or make of motor vehicles that the dealer has established in its dealership facilities with the prior written approval of the manufacturer or distributor.

(3) Establish or acquire wholly or partially a franchisor owned outlet engaged **wholly or partially** in a substantially identical business to that of the franchisee within the exclusive territory granted the franchisee by the franchise agreement or, if no exclusive territory is designated, competing unfairly with the franchisee within a reasonable market area. A franchisor is not considered to be competing unfairly if operating:

(A) a business either temporarily for a reasonable period of time;

(B) in a bona fide retail operation that is for sale to any qualified independent person at a fair and reasonable price; or

(C) in a bona fide relationship in which an independent person or persons have made a significant investment subject to loss in the business operation and can reasonably expect to acquire majority ownership or managerial control of the business on reasonable terms and conditions.

This subsection shall not apply to recreational vehicle manufacturer franchisors.

SECTION 3. IC 9-23-3-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2001]: **Sec. 24. It is an unfair practice for a manufacturer or distributor to establish a dealership that would unfairly compete with a new vehicle dealer within the dealer's relevant market area (as defined in IC 9-13-2-151.5) if:**

**(1) the dealer sells the same line make of motor vehicles that would be sold at the dealership established by the manufacturer or distributor; and**

**(2) the dealer is operating in the relevant market area under a dealership agreement:**

**(A) with the manufacturer, in the case of a dealership established by the manufacturer; or**

**(B) with the manufacturer of the line or make of motor vehicles distributed by the distributor, in the case of a dealership established by the distributor.**

SECTION 4. IC 9-23-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. This chapter does not apply to a franchise if:

(1) the franchise is granted to a dealer other than a new motor vehicle dealer; and

(2) the franchise or other written document filed with the franchisor includes the franchisee's designation of a successor to the franchise who is not the:

**(A) franchisee's spouse;**

**(B) child;**

**(C) grandchild;**

**(D) spouse of a:**

**(i) child; or**

**(ii) grandchild;**

**(E) parent; or**

**(F) sibling.**

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